

Honorable Judge Manuel Cervantes,

I'm am writing you because my concern for people other species that inhabit our Earth and because of the of the catastrophic weather events that we have been witnessing globally: devastating floods, droughts on nearly all continents, worldwide record high temperatures, unprecedented numbers of wildfires and the melting of glaciers and Arctic sea ice as well as the disappearing of our coral reefs and other marine life.

It is now almost universally believed among climate scientists that these extreme weather events are due to global warming caused by human use of fossil fuels which when used emit CO2. The scientists tell us that in order to have a stable climate we must limit greenhouse gases in our atmosphere to 350ppm. if life on earth is to continue as we have known it. We are now approaching 400ppm.and the rate of emissions is increasing rather than slowing. The scientists are predicting that with the increased CO2 already in the atmosphere we can expect extreme weather events to continue for fifty to one hundred years before beginning to abate even if we immediately stop the use of fossil fuels.

Scientists are also predicting the loss of from one third to one half of all earth species including many we know and love unless we turn things around. We cannot afford to take half measures. Very little is now being done in the U.S. to reduce our consumption of fossil fuels especially coal which is the greatest contributor to greenhouse gasses.

We really need to get serious to reduce our dependence on fossil fuels if we are going to save our planet. We are the wealthiest country on Earth, we can do this. Germany's electricity now comes overwhelmingly from solar panels. They produce so much that actually export electricity to other countries.

Converting to green energy will not happen if the utility companies are allowed to continue business as usual. For the sake of our children and grand children, for future generations and also other species I urge you to order the MPCA to set progressively drastically reduced limits on greenhouse gas emission by utility companies. I don't know what these will be but certainly much lower than those set by the EPA.

I thank you. Future generations will honor us for our our resolve.

Sincerely,
John Schmid
Mpls.

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ADMINISTRATIVE
HEARINGS

Osborn, Mary E (OAH)

From: Carol A. Overland <overland@legalelectric.org>
Sent: Wednesday, September 19, 2012 4:09 PM
To: *OAH_RuleComments.OAH
Subject: Overland Comments - MPCA Greenhouse Gas Rulemaking
Attachments: OverlandComment_GHGRules.pdf

Judge Cervantes:

Attached please find my comments in the above-entitled matter.

Thanks for the opportunity to Comment.

Carol A. Overland

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"Our lives begin to end the day we become silent about the things that matter." Dr. Martin Luther King, Jr.

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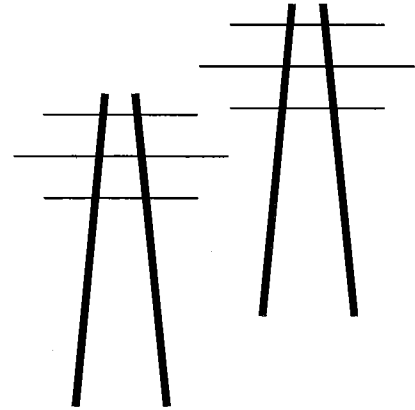
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September 19, 2012

Manuel Cervantes
Administrative Law Judge
Office of Administrative Hearings
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Saint Paul, MN 55164-0620

Via email: rulecomments@state.mn.us

RE: Comments of Carol A. Overland (as an individual)
In the Matter of the Proposed Amendments to Rules Governing Air Emissions Permits,
Minnesota Rules Chapters 200 7007, Greenhouse Gas Permitting Rules ("Tailoring" or
"GHG" Rules) and 7001
OAH Rules Docket No. 16-2200-22910-1

Dear Judge Cervantes:

Thank you for extending the deadline for submission of written comments to today's date. Please add my name to the service list/contact list regarding this docket.

I am making these comments as an individual, and not in the course of representing any party. Although this isn't my area of expertise, I spend most of my days mired in administrative procedure. I'm disturbed by the MPCA's disregard for procedural requirements, and equally disturbed by the ineffectiveness of the rule, as proposed, to have any impact on greenhouse gas emissions.

At the outset, I appreciate the prompt and complete provision of the Exhibits by the MPCA shortly after I requested the "jurisdictional exhibits" and am heartened to see that information also posted on the OAH site.

Procedural Comments

- 1) Proper notice must be given. At the hearing on August 30, 2012, I was disturbed to hear that the MPCA had not complied with notice requirements. Hearing Transcript, p. 16, l. 6-7; p. 105-113, l. 21. Worse, MPCA's Asst. A.G. is of the opinion that failure to provide notice as required is "harmless error." Hearing Transcript, p. 16, l. 10; p. 107, l. 13-14.

Notice for this hearing was not sufficient under Minn. Stat. §14.14, Subdivision 18, as notice is to be provided 30 days before, BEFORE, the hearing, and that did not occur.

- 2) The hearing should be re-noticed and held with proper notice as the hearing was held despite improper notice, contrary to Minn. Stat. §14.50, Subdivision 2.
- 3) Broader notice should be provided. MPCA staff did quickly provide copies of the Exhibits 6 and 7 in question, which is much appreciated. I've reviewed the lists, and note that most of the ".org" emails are obviously for local units of government, and few non-profit "orgs" got notice. Notice provided seemed to be mostly corporate emails of greenhouse gas producers with an interest in light or no regulation of greenhouse gas, and because of the mining focus of this rulemaking, mining interests were heavily represented. Interested individuals and organization in the impacted geographic area could be easily gleaned from participation in other mining issues before MPCA.
- 4) Notice for this hearing should be provided to the Governor's Minnesota Climate Change Advisory Group (hereinafter "Greenhouse Gasbags") (Unfortunately, that is also comprised primarily of interested corporate parties, and the final report was not effective emissions limiting policy suggestions). The Greenhouse Gasbags are at the very least stakeholders in this process. Each member of the Greenhouse Gasbags should have received direct notice. Their identity is not secret, and because of their involvement in the Greenhouse Gas issue thus far, should be well known to the MPCA. Unfortunately, that group was also "heavily weighted toward corporate and utility members¹."
- 5) In addition, wide outreach should be made to individuals and organizations concerned and participating in greenhouse gas issues. In a short time, the MPCA could undoubtedly come up with a list of individual and organizational stakeholders beyond the few who were provided notice. Parties interested in Greenhouse Gas issues can be gleaned from those commenting on the Minnesota Climate Change Advisory Group Final Report (MCCAG Final Report), also available online². Parties interested in Iron Range environmental issues can be gleaned from the several dockets recently before the MPCA.

Substantive Comments

- 6) The scope of the proposed rule, with nominal impacts, is based upon the MPCA claim that over 100,000 facilities would be affected by a very low threshold, whereas a higher threshold would only affect a handful of facilities, and thus a higher threshold was picked. However, from comments at the hearing, it's apparent that a range of options was not considered. A range of options SHOULD be considered. Letting almost all of the facilities emit greenhouse gas without restraint is contrary to Minnesota's Climate Change Act.
- 7) The proposed high threshold is, according to the SONAR (p. 11) and comments at the hearing, based on MPCA's lack of funding for staff, enforcement and program activities. Lack of funding is NOT sufficient reason nor excuse for the MPCA to abdicate its job of pollution control. "Economic considerations alone shall not constitute a defense hereunder" when charged with

¹ MCCAG members as of 2-13-08: <http://www.mnclimatechange.us/ewebeditpro/items/O3F15517.pdf>; see also See Sierra Club Comment, MCCAG Public Comments, p. 6.

² Public Comments on Minnesota Climate Change Advisory Group Final Report available here: http://legalelectric.org/f/2008/05/public_comments_on_the_minnesota_climate_change_advisory_group_rep_050108_042715_mccagappendixpubliccomments.pdf

environmental degradation. Minn. Stat. §116B.04; Minn. Stat. §116B.09, Subd. 2; Minn. Stat. §116D.04, Subd. 6.

- 8) MPCA should disclose a range of threshold options, at the very least, "small, medium, and large" options and disclose the funding available for greenhouse gas regulation, and for each threshold option, disclose the amount of funding necessary to achieve that level of regulation.
- 9) MPCA should engage in a "pre-proposal" proceeding to better determine an appropriate level of regulation similar to that of the OAH Rulemaking Proceeding³. There is no rational basis for the regulatory option proposed in the currently proposed MPCA rule.

The MPCA's rule, as proposed, is substantively deficient, because it does nothing to restrict greenhouse gas emissions, is not in compliance with the intent of the 2007 Climate Change Act, and is an abdication of the MPCA's authority to regulate greenhouse gas. Procedurally, this rulemaking is fatally flawed. At the very least, the proposed rule should be reworked, adequate notice provided to a broad range of interested parties beyond concerned CO2 emitters, and the hearing held as required by Minnesota's Administrative Procedure Act.

Thank you for the opportunity to submit these Comments.

If you have any questions, or require anything further, please let me know.

Very truly yours



Carol A. Overland
Attorney at Law

³ See OAH Rulemaking: <http://mn.gov/oah/administrative-law/comments/rule/oah-rulemaking-proceedings.jsp>